

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY


(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 02 MAR 2006

WIPO

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Applicant's or agent's file reference -	<b>FOR FURTHER ACTION</b>  See Form PCT/PEA/416	
International application No. PCT/YU2004/000026	International filing date (day/month/year) 28.10.2004	Priority date (day/month/year) 13.11.2003
International Patent Classification (IPC) or national classification and IPC INV. C09K5/10 C09K5/20		
Applicant MILOVANOVIC, Vladislav		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 9 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau a total of 18 sheets, as follows:</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I      Basis of the report</p> <p><input type="checkbox"/> Box No. II      Priority</p> <p><input checked="" type="checkbox"/> Box No. III      Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV      Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V      Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI      Certain documents cited</p> <p><input type="checkbox"/> Box No. VII      Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII      Certain observations on the international application</p>		
Date of submission of the demand  10.06.2005	Date of completion of this report  03.03.2006	
Name and mailing address of the international preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer  Puetz, C  Telephone No. +31 70 340-3759	



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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-15

received on 04.02.2006 with letter of 03.02.2006

**Claims, Numbers**

1-9

received on 04.02.2006 with letter of 03.02.2006

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☒ The amendments have resulted in the cancellation of:
- ☒ the description, pages 16-23
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing *(specify)*:
  - ☐ any table(s) related to sequence listing *(specify)*:
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☒ the description, pages 1-15
  - ☒ the claims, Nos. 1-9
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing *(specify)*:
  - ☐ any table(s) related to sequence listing *(specify)*:

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 1,2 (all in part)

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 1-2 (all in part)

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See separate sheet for further details

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	
	No: Claims	1,2
Inventive step (IS)	Yes: Claims	
	No: Claims	1,2
Industrial applicability (IA)	Yes: Claims	1,2
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

**Re Item I**

**Basis of the report**

1. The amendments filed with the letter dated 03.02.2006 introduce subject-matter which extends beyond the content of the application as originally filed, contrary to Article 34(2)(b) PCT. The amendments concerned are the following:

**The whole description:**

The applicant has filed a new description without giving a basis for the amended text.  
The parts concerned are:

Page 1, paragraphs 2 and 3;  
page 2, paragraphs 2-4;  
page 3;  
page 4;  
page 5, paragraph 1  
page 6, paragraphs 4 (in part) and 5  
page 9, paragraphs 1-4  
page 12, last 2 paragraphs  
page 13-15

Additionally in the parts where the applicant states to give a basis in the application as originally filed sentences are changed or reformulated and facts are added (e.g. page 1, paragraph 3, last sentence)

**The claims:**

The applicant has filed new claims 1-9. Although some basis can be found in "table A" and "table B" and on page 7, lines 17-24, respectively, in the application as originally filed, it is noted that the claimed compositions are not allowable for the following reasons:

**Claim 1:**

The wording of claim 1 has no basis in the application as originally filed. The water solution is said to comprise a "*polyvalent alcohol, water and additives as inhibitors*". The use of the term "*water*" is seen as an unallowable broadening with respect to the application as originally filed, since every time water is specifically disclosed in the application as originally filed it is referred to as "*soften water*" (page 2, line 7) or "*soften or distilled*" (page 5) or "*distilled*" (table A).

Furthermore the claimed water solution is said to comprise "*from 38 to 88% of a polyvalent alcohol*" and to be "*effective at temperatures from -65°C to +110°C*".

Originally filed page 7 only refers to a basic substance, that is used in concentrations of 38, 48, 60 and 88 % in combinations with formulations A,B,C and D from table "A". Each of these specific concentrations is linked to specific temperatures (-25°C, -35°C, -55°C and -65°C). E.g. 38% of a basic substance is only disclosed in combination with additives of formulation A from table A and for the specific temperature of -25°C and not for the claimed temperature range of -65°C to +110°C.

Therefore there is no basis in the application as originally filed for the polyvalent alcohol in combination with the claimed specific concentration ranges and temperature ranges and it is seen as unallowable broadening.

Claims 2-5:

The subject-matter of said claims, referring back to claim 1, is based on the formulations A,B,C and D from table A and page 7, lines 15-24 of the description as originally filed. The expression "*temperatures up to*" cannot be accepted since the relevant part of the description refers to "*temperature of*".

Claim 6:

The wording of claim 6 has no basis in the application as originally filed.

A "*regenerator for wasted antifreeze*" is said to comprise a "*polyvalent alcohol such*

as *glycerol, water*".

The description as originally filed refers on page 18 to a "*regenerator-modifier for utilized antifreeze*".

The use of the term "*water*" is seen as an unallowable broadening of the scope of claim 6, since the water specifically disclosed in the application as originally filed in table B is referred to as "*distilled*" (table B).

### **Re Item III**

#### **Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. Claims 1 and 2 as originally filed do not fulfill the requirements of Article 6 PCT, as they lack clarity. The claims neither define the matter for which protection is sought in a clear and concise way, nor are they clear concerning the definition in terms of technical features, thereby leaving the reader in doubt about the claimed subject-matter (Rule 6 PCT). The Applicant's attention is also drawn to the PCT Guide-lines 5.04, which is also concerned with the drafting of claims in terms of "*technical features of the invention*". It is made clear that "*this means that claims should not contain any statements relating, for example, the commercial advantages or other non-technical matters..*". Furthermore it is accepted practice in claim drafting to use one sentence per claim.
2. Because of the deficiencies mentioned in point 1. a meaningful search for the claimed subject-matter could not be carried out (Article 17(2)(a)(ii) PCT).
3. In the present case the present claims 1 and 2 had to be interpreted in the light of the description and the search has been restricted to compositions based on glycerine.
4. Consequently the opinion with respect to patentability in Item V is restricted to that which has been searched.

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(SEPARATE SHEET)**

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**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

- D1: EP-A-1 010 740
- D2: WO 03/040254
- D3: DE 11 25 407 B
- D4: US-A-1 980 282
- D5: DE 569 771 C
- D6: WO 02/08354
- D7: DE 101 63 337
- D8: DE 25 40 251
- D9: EP-A-0 048 430
- D10: US-A-4 000 079
- D11: US-A-4 455 248
- D12: US-A-4 404 113
- D13: US-A-5 489 391
- D14: US-A-5 387 360
- D15: US 2003/198847
- D16: GB-A-2 059 432
- D17: DATABASE WPI Section Ch, Week 199427 Derwent Publications Ltd.,  
London, GB; Class E19, AN 1994-218517 XP002317510 & CN 1 076 956 A  
(ZHAO Y) 6 October 1993 (1993-10-06)
- D18: US-A-5 288 419

**1. General remark:**

The opinion with respect to Article 33(1) PCT is subject to the restrictions mentioned above in Item III and Item I.

**2. Novelty (Article 33(2) PCT:**

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1 and 2 is not new in the sense of Article 33(2) PCT.

Because of the unclear way in which the claims are construed documents **D1-D15** are novelty-destroying documents. **D1-D15** are concerned with cooling/antifreeze liquids/compositions which are either based on glycerin (**D1-D5**) or where glycerin is mentioned as one possible base material (**D6-D15**). The Applicant should note that at least the following passages are relevant:

- D1:** examples 1-7, claims 1-3
- D2:** examples 5,7,12,13,16-18
- D3:** example III
- D4:** whole document
- D5:** whole document
- D6:** claim 1
- D7:** paragraphs [0002],[0029]
- D8:** claim 1
- D9:** claim 1
- D10:** column 4,line 55-column 5,line 7; claims 1,3
- D11:** column 2, lines 25-45, claim 1
- D12:** claim 1
- D13:** column 4, lines 16-24; claims 1,3,9; table 1
- D14:** column 2, lines 26-50
- D15:** claims 1,5

**3. Concluding remark:**

Documents **D16-D18** are also regarded as relevant documents in view of novelty and inventive step.